

IOWA PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF

Atlantic Community School District
Public Employer,

and

Atlantic School District Employees Assn.,
Union,

CEO #55/1

FACTFINDER
RECOMMENDATIONSReceived via e-mail
June 6, 2006

Appearances:

For the EmployerDrew Bracken, Attorney
Wendy Prigge
Jan KernsFor the UnionJohn Phillips, Representative
Pat Shipley
Jerry Jensen
Lori CookBACKGROUND

This matter comes before the Fact-finder pursuant to Iowa Code Chapter 20.

The Employer and the Union have engaged in negotiations and mediation, but were unable to reach a voluntary agreement on wages and certification pay for waste water employees. The Fact-finding hearing took place on May 22, 2006 in Atlantic, Iowa. Both parties had the opportunity to present all the evidence in support of their bargaining proposals. The representatives did an excellent job of presenting their evidence and the well-organized exhibit notebooks from both parties were much appreciated by this Fact-finder.

IMPASSE ITEMS

Wages:

Employer Final Offer

Union Final Offer

Each party presented final offers in the form of a comprehensive pay matrix showing the proposed pay of each employee in the bargaining unit. District Exhibit 1; Association Exhibit 1. The estimated total package increase of the Association's fact-finding offer is 5.03%, and the estimated total package increase of the District's fact-finding offer is 3.38%. Each party proposes changing the amount of time between the starting wage and the second step on the salary matrix from six months to one year and adding an additional step to the top of the pay schedule. The Association proposes an increase of \$.30 for most classifications except bus drivers¹ for steps 3 through 7, an increase of between \$.48 and \$.62 for step 2, and no change in the starting wage for most classifications. The District proposes an increase of \$.33 for steps 2 through 6 of most classifications, an increase of \$.15 for step 7, and a change in the starting wage ranging from no increase or decrease for several classifications to an increase ranging from \$.02 to \$.09 for remaining classifications.

Leaves of Absence

Employer Final Offer

Union Final Offer

Personal Leave

Status Quo.

Change number of personal leave days available from one to two and increase the maximum number of personal leave days that may be accumulated from 2 to 3.

¹ Bus drivers are paid on a monthly basis rather than an hourly basis, so the salary increases are expressed as dollars/month rather than cents/hour.

Serious Illness and Bereavement Leave

Limit serious illness leave in section A for dependent children to one day.

Replace current section A with new section entitled "Family Illness."

FINDINGS OF LAW

The Iowa Code is silent on what a Fact-finder may consider in making settlement recommendations. Because a Fact-finder's proposal may be presented to an interest arbitrator as an alternative to consider, and arbitrators are required to consider the statutory criteria, many fact-finders have found that it is appropriate to refer to the standards provided in Iowa Code §20.22(9):

The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
- b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
- c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of adjustments on the normal standard of services.
- d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

Unlike the arbitrator, a Fact-finder is not limited in what he or she may recommend. The arbitrator is "restricted to the final offers on each impasse item submitted by the parties to the arbitration board or to the recommendation of the fact-finder on each impasse item." Iowa Code §20.22(9). As a Fact-finder I am free, however, to make compromise recommendations; to accept or reject any part or all of the parties' final offers. The only limits for the Fact-finder should be reasonableness. Some

fact-finders consider it appropriate to recommend a settlement that the parties should have reached themselves, even if it would not be strictly compliant with section 9. At the hearing, the representatives both indicated that the Fact-finder's role is to assist the parties in settling. I will consider what is most reasonable, given the criteria in Section 20.22(9), but also keeping in mind the goal of helping the parties reach a settlement after this stage of the bargaining procedure.

FINDINGS OF FACT

This bargaining unit represents approximately 94 full- and part-time support staff employees in the Atlantic Community School District. The employees are in five job categories: Aides, variously called paraprofessionals and associates in school districts around the state, ten of which are regular program assistants and 31 of which are special education aides; fourteen custodians; 21 food service employees; seven secretaries; and eleven transportation employees.

The Atlantic Community School District is in good financial condition. This year, Atlantic CDS has an allowable growth of 5.01%, within the top 20% of school districts in the state. In addition, for the first time in several years, due to an agreement to raise the deductibles from 250/500 to 1000/1500, there will be a slight insurance premium decrease for next year. The teachers have settled for a total package increase of 4.9% although the wage increase is higher, the difference being attributable to the decrease in the cost of health insurance. Association Exhibit 5-7.

The Atlantic CSD is a well-run district and financially healthy. The cash reserves are remarkable given the low allowable growth this district has experienced for several years before this year. Because of a projected increase in enrollment, this year's

allowable growth is 5.01%. It remains to be seen whether this will be a continuing trend for this district.

In addition to the high allowable growth this year after many lean years, the District has seen an increasing unspent balance. According to Association Exhibit 7-3, as modified by District Exhibit 9-1, the District's unspent balance has grown even as there was no allowable growth, or new money from the state:

Table 1

Budget Year	Unspent Balance	Allowable Growth	Wage Increase	Total Package
1998-1999	3,292,270	.85%	2.9	3.15
1999-2000	3,772,159	1.94	3.07	3.68
2000-2001	4,253,022	0	2.93	3.17
2001-2002	4,531,512	.56	2.98	3.61
2002-2003	4,768,656	0	2.9	3.62
2003-2004	4,601,645	0	2.88	3.39
2004-2005	4,786,811	-.58	2.19	3.72
2005-2006	4,596,486	-.03	2.87	3.88

During the time of low allowable growth, this bargaining unit continued to receive modest wage and total package increases as shown above.

Position of the Parties

Wages

The Association argues that the District is clearly able to pay a higher wage increase this year. The Association argues that its position does not cost as much as

estimated because of the fact that the number of hours worked by Aides are overestimated and include as paid time the hours not worked by the Aides because of early dismissals and conferences. The Association also points out that the funding source of many of the bargaining unit employees is a Special Education or Nutrition fund and does not eat up the Regular Program money. The Association points out that the unspent balance has grown and its ending fund is more than 25% of its expenditures. The Association argues that the District ranks sixth among its proposed comparability group in enrollment, 8th in general fund expenditures, and first in unspent balance.

The Association points out that the average total package settlement for support staff units reported so far to the ISEA is 5.21%, well above both the District and the Association's proposals. The Association argues that it negotiated voluntary agreements with the district during the lean years. In addition, although insurance costs to the employer and to employees (single coverage is paid by the employer, employees pay the additional cost for family coverage minus a tax-sheltered annuity for regular full-time 12-month employees) will decrease this year, the health and major deductible will increase from \$250 to \$1000.

The District acknowledges its high unspent balance and high allowable growth this year, although with the revised budgets shown in District Exhibit 9-1, the unspent balance is not as high as estimated. The District represented that its budget for 2007 will nearly cut that unspent balance in half as the District works to reinstate programs that have suffered because of low funding in the past. District Exhibit 9-1 shows significant increases in the category of "Facilities Acquisition and Construction" and "NonInstructional Programs" that seem to account for a major portion of this reduction in the estimated unspent balance for next year. The District further argues that there is a

significant difference between the unspent balance and a cash reserve. The District acknowledges that it does have the ability to pay the Associations' proposal. The District points out that this unit has continued to receive wage increases even when there was no new money. According to the District, this bargaining unit ranks at or near the top in all benchmarks among the school districts in the District's proposed comparability group. Maintaining the top position is not necessarily a reason to give a high wage increase, unless there is reason to believe that the ranking should never be changed, meaning there is no way or reason for the districts ranked at the bottom to move up. The District argues that the fact that the District has more money this year does not mean that the unit should receive an increase that puts the unit unreasonably ahead of the comparable units. The District argues that the teachers ranked comparatively low, and that justified the high wage increase for that bargaining unit this year, but the support unit has not suffered the same low ranking among comparable groups as the teacher's unit has.

Leaves of Absence

The Association argues that the comparability data overwhelmingly supports its proposal to add one day of personal leave and increase the number of personal leave days that may be accumulated from two to three. The Association further argues that the current Serious Illness leave provision is confusing and misleading at best, as well as unfair. It provides a maximum of seven days, but it may be as little as two days.

The District argues that language changes should be left to the parties to obtain through the give and take of bargaining. The District strongly objects to giving or increasing a benefit without any concessions in exchange for it.

FACT-FINDING RECOMMENDATIONS

Comparability Group

The parties have never gone to impasse before this year in 25 years of bargaining, so there has been no established comparability group. Both parties proposed a different comparability group. The only school districts which are common to each party's proposed comparability group are Shenandoah and Red Oak, which are also in the Hawkeye 10 athletic conference.

The District proposes using the entire Hawkeye 10 athletic conference as the comparability group because of the tradition within the state and the fact that the athletic conference tends to group school districts of similar size and close proximity. There is some logic to this position, but for the fact that it appears that the support personnel is organized in only half of the Hawkeye 10 districts. The employer argues that, since Iowa is a right to work state, it does not make sense to only compare organized schools, but most neutrals agree that it is generally inappropriate to compare employers with and without organized bargaining units. Whether employees are allowed to work for an employer without joining the union is not relevant to whether or not organized labor potentially has enough bargaining power to negotiate higher wages and better benefits than the non-organized units. Therefore, the comparability group should include organized labor units.

There is some logic to using the communities that are closer to Atlantic because of the fact that the pool of potential employees is more local. In addition, Chapter 20 requires that the comparison be made "with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the

classifications involved.” Thus, it is appropriate to consider similar-sized bargaining units in the area. The problem in this case seems to be, however, that there is a limited pool of similar-sized organized bargaining units in the area.

Given all of these considerations, I recommend the use of these communities for comparison because of their similar populations, relatively close proximity to Atlantic or schools in the athletic conference, and the fact that at least some of the support staff is organized: Shenandoah, Red Oak, Creston, Glenwood, Carroll, Webster City, Albia, Clarke and Winterset. I would have liked to see more districts to use for comparison, but Chapter 20 does place some limits. Of course the parties are free to establish additional groups by agreement. There are some classifications which will not have an organized unit comparable for each district in this group, but using the concept of benchmark classifications should give a good idea of where the district ranks. It may also be appropriate to include Lewis-Central, but the Fact-finder was unable to find among the voluminous documents presented as exhibits any reference to whether the support staff at Lewis-Central is organized, so for purposes of the recommendations made today, Lewis-Central has been excluded.

Wages

This bargaining unit appears to be sitting very favorably compared to other units within the proposed comparability group, and even among the other districts proposed by the Association as the comparability group. It is true that this District has the ability to pay the Association’s proposal, but Chapter 20 requires consideration of more than the ability to pay. If a proposal would push a bargaining unit’s wages out of sync with comparable units, that could make it unreasonable under Chapter 20. Past collective

bargaining agreements may also be a consideration. As seen in Table 1, this unit continued to receive pay increases even when the District was seeing negative allowable growth.

This year's negotiations yielded several issues that I have been asked to make recommendations about. I have already addressed the comparability group. The parties have agreed this year to expand the increases between the steps on the pay matrix, but they did not agree on what amount that interval should be. In addition, the parties have agreed to eliminate the six-month increase and add another step at the top of the pay plan. The parties did not agree on what year the top new step should start, so this is another recommendation I have to make.

Based upon the considerations found in Chapter 20, as well as the goal of finding a compromise that will be acceptable to both parties, I recommend the new wage schedule attached to this award as "Schedule A."

My recommendation used the District's proposed starting wage and intervals between steps of \$.33. There is no justification for giving a double increase after one year. The new wage schedule already nearly doubles, or in some cases more than doubles, the current increase seen after six months, so there is no loss to the employee by reason of extending the first pay increase by six months.

I did not use the District's proposal for providing a smaller increase at the last step. Again, there is not a strong justification for giving a smaller increase at the top of the wage schedule. The employees already have to wait four years before being able to advance on the salary schedule to the top step, which is more than for any of the other steps. I also recommend the Association's proposal to start the new top step at 15 years instead of the District's proposal of 16 years. In the District's proposed comparability

group using the Hawkeye 10 athletic conference, there are only two Districts that take longer than 15 years to reach the top in the various classifications, although it is not always the same District or the same classification. District Exhibit 5-1.

Three exceptions to the above scheme should be noted. First, the bus route drivers are paid on a salaried basis rather than an hourly basis, so the recommended increase is \$27 between steps, up from the former step increases of \$12 and \$16 (except for the larger jump at step 5).

The second exception relates to the Bus Activity Waiting classification. I note that both the Association and the District agree on all but the second step of the wage schedule for this classification, as can be seen in Association Exhibit 1-2 and District Exhibit 1. The District's proposal for Step 2 (after one year) is higher than the Association's proposal, so I have recommended the District's proposal. The third exception for cafeteria workers is a compromise of the union's proposal in Exhibit 1-2 and the consistent application of a uniform increase between steps, as I have recommended for the other classifications.

I believe this recommendation is reasonable for the following reasons: First, the support employees in this unit are going to benefit from an increase in pay as a result of the expanding wage schedule and higher increases between steps, particularly the longer-term employees. And using the District's proposed higher starting figure will increase those at the top even further. In addition, the uniform interval between steps will ease administration of the wage schedule. Finally, there has been no real justification to push this support unit, which by all accounts already fares extremely well when compared with the similar units in the recommended comparability group, even that much further ahead of the comparable units. Even the Association's presentation showed that most of the

support employees in this District are at or near the top of the Association's proposed comparability group. Association Exhibit 3-6 to 3-10. The ranking of secretaries falls within the recommended comparability group to within the top half of the salary range, but the starting wage is at or near the top.

Leaves of Absence

It is true that neutrals are very reluctant to make changes to contract language that has been obtained through the give-and-take of negotiations. This would be particularly true of a new benefit. Some arbitrators would not equate the expansion of a benefit to the granting of a new benefit.

My unique role as a Fact-finder allows me some latitude, however, to recommend a fair compromise. The comparability data clearly supports one additional day of personal leave, whether one looks at the information provided by the District or by the Association. The increase in the deductibility of the health insurance plan does possibly represent a burdensome expense to those employees who use the District's health plan. One additional personal leave day would be a reasonable concession to the support employees at this time.

The remaining portion of the Association's proposal, however, is more troublesome. Both proposals include language that can be open to differing interpretations, and imposition of such a provision by a neutral third-party deprives the parties of the bargaining history that can help them determine the intent if a dispute ever arose. I understand and empathize with the Association's issue concerning the limitations of the provision, but it is more reasonable for the parties to put more work into finding a fair compromise on their own so they can have ownership of the changes.

Fact-finding Recommendations

Wages: See Schedule A.

Leaves of Absence: Article 14 – Temporary Leaves of Absence

A. Paid Leave

1. Personal Leave

At the beginning of every contract year, each employee shall be credited with two (2) days to be used for the employee's personal reasons. An employee planning to use a personal leave day shall obtain the approval of his/her immediate supervisor at least one (1) day in advance, except in cases of emergency. Unused personal days may accumulate from year to year to a maximum of three (3) days. (remainder status quo).

4. Serious Illness and Bereavement Leave Status Quo.

Dated this 6th day of June, 2006.



Kristin H. Johnson
Fact-finder

SCHEDULE A

Fact-finder Recommendation 2006-2007

CUSTODIAL STAFF				
	Head Maintenance	Night	Special Maint.	Day
1 - First year	12.75	11.85	12.00	11.75
2 - After 1 year	13.08	12.18	12.33	12.08
3 - 2-3 years	13.41	12.51	12.66	12.41
4 - 4-6 years	13.74	12.84	12.99	12.74
5 - 7-9 years	14.07	13.17	13.32	13.07
6 - 10-14 years	14.40	13.50	13.65	13.41
7 - 15 years +	14.73	13.83	13.98	13.73
TRANSPORTATION				
	Bus Route Drivers	Bus Asst. Mech.	Bus Act. Drivers	Bus Act. Waiting
1 - First year	1006	11.75	12.58	11.01
2 - After 1 year	1033	12.08	12.93	11.31
3 - 2-3 years	1060	12.41	13.26	11.46
4 - 4-6 years	1087	12.74	13.59	11.61
5 - 7-9 years	1114	13.07	13.92	11.76
6 - 10-14 years	1141	13.40	14.25	11.91
7 - 15 years +	1168	13.73	14.58	12.06
FOOD SERVICE				
	Head Cook	Cashier/Book	Bus Driver	Cafeteria Worker
1 - First year	10.60	9.65	11.56	9.10
2 - After 1 year	10.93	9.98	11.89	9.41
3 - 2-3 years	11.26	10.31	12.22	9.72
4 - 4-6 years	11.59	10.64	12.55	10.03
5 - 7-9 years	11.92	10.97	12.88	10.34
6 - 10-14 years	12.25	11.30	13.21	10.65
7 - 15 years +	12.58	11.63	13.54	10.96
SECRETARIAL				
	Guidance/Other	HS Vice /MS/EI	High School	
1 - First year	10.30	10.75	10.80	
2 - After 1 year	10.63	11.08	11.13	
3 - 2-3 years	10.96	11.41	11.46	
4 - 4-6 years	11.29	11.74	11.79	
5 - 7-9 years	11.62	12.07	12.12	
6 - 10-14 years	11.95	12.40	12.45	
7 - 15 years +	12.28	12.73	12.78	
AIDES				
	Class 1 Certified	Class 2		
1 - First year	10.40	10.10		
2 - After 1 year	10.73	10.43		
3 - 2-3 years	11.06	10.76		
4 - 4-6 years	11.39	11.09		
5 - 7-9 years	11.72	11.42		
6 - 10-14 years	12.05	11.75		
7 - 15 years +	12.38	12.08		

CERTIFICATE OF SERVICE

I certify that on the 6th day of June, 2006, I served the foregoing Fact-Finder Recommendations upon each of the parties to this matter by emailing a copy to them at their respective addresses as shown below:

Drew Bracken
Ahlers Law Firm
Des Moines, IA
DBracken@Ahlerslaw.com

John Phillips
NEA/ISEA Southwest Uniserv Unit
1110 Broadway
Red Oak, IA 51566
JPhillips@isea.org
mpaul@isea.org

I further certify that on the 6th day of June, 2006, I will submit this Report for filing by emailing it to the Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, IA 30319-0203 and emailing it to susan.bolte@iowa.gov.

Hard copy to follow.



Kristin H. Johnson
Fact-finder